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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,495	11/14/2003	Patrick McCauley		9212
7590	02/14/2006		EXAMINER	
John R. Ross, III Ross Patent Law Office P.O. Box 2138 Del Mar, CA 92014			WILLIAMS, MARK A	
		ART UNIT	PAPER NUMBER	
			3676	

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/713,495	MCCAULEY, PATRICK	
	Examiner	Art Unit	
	Mark A. Williams	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 December 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2,4-17 and 19-30 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 2,4-10,13-17 and 19-30 is/are rejected.
 7) Claim(s) 11 and 12 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the two ferrules crimping the stiffening wire, of claim 12, must be shown (or clearly pointed out) or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top

margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 22 and 23 are objected to because of the following informalities: the dependency of these claims should be changed to claim 21, which appears to have been applicant’s intent.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 6-9, 14, 15, 17, and 19-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Abdo, US Patent 5,671,497. Note figures 7 and 8. A bendable extension arm for extending a user’s reach while at least one tool 70 is

connected, said extension arm comprising a deformable stiffening wire 64 sufficiently deformable to be easily deformed by the hands of said user but stiff enough to resist further bending in the course of tool usage, said stiffening wire defining a first end and a second end. A first wire receptor at 76 attached to said first end, said first end comprising an attachment means for attaching a tool, a second wire receptor at 60 attached to said second end, and a sheath 66 covering said stiffening wire, wherein said extension arm may be bent by hands of said user into desired shapes up to a bending limit but remain stiff enough in said desired shapes to resist further bending during tool usage, and wherein substantially all resistance to bending during tool usage below said bending limit is provided by said stiffening wire. Regarding the limitations of the sheath being for preventing over bending of said stiffening wire and a bending limit determined by said sheath, such structure is considered inherent to the design; although not explicitly pointed out in Abdo, the fact that such an effect would inherently be produced by the design is clear from the drawings, by the fact that during bending, the plastic covering 66 has to stretch on one side and be compressed on the other side to accommodate bending; and this would provide substantial resistant to bending once a substantial amount of bending is achieved. The stiffening wire is considered rigidly attached to the first and second wire receptors as claimed. The

wire is slidingly received in the receptors (along with the sheath), and the receptors function as couplers, as claimed. The claimed method is inherent to the design. Element 52 is considered an extension pole.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abdo.

Abdo discloses the claimed invention except for the claimed metal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device in this way, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331. Such a modification is not critical to the design and would have produced no unexpected results. Such a modification would have provided a known alternative design that would have worked equally as well.

6. Claims 4, 16, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abdo in view of Ficke, US Patent 3,357,035. Abdo does not teach the use of the device in a paint brush application, as claimed. Ficke teaches use of an adjustable paint brush device on the end of an extension pole. It would have been obvious to use the device of Abdo with a paint brush, replacing the disclosed tool 70 with a paint brush similarly attached thereto, for the purpose of gaining the benefits of the bendable easily adjustable paint brush extension device in a painting application.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abdo. Although Abdo does not explicitly teach threads as attachment means as claimed, the examiner serves Official Notice that it is very old and well known in the art of connections to join two members by means of thread attachments. It would have been obvious to modify the design of Abdo to include thread attachment means, as oppose to friction fit or adhesive, for the purpose of providing an alternative known means of attachment that would have functioned equally as well.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abdo in view of Bovee, US Patent 2,372,930. Abdo provides a plastic sheath, not

a helical metal one, as claimed. Bovee provides such a covering 2 for a similar type bendable extension. One skilled in the art would understand that one benefit to such a design is that a metal sheath would provide a more durable surface, particularly in applications in which the extension may come into contact with harder, rough surfaces. Note that the sheath limits bending as claimed. It would have been obvious to have modified the device of Abdo in this way, for the purpose of providing a known alternative sheath covering that would have provided a more durable surface of contact.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abdo. Although a plurality of stiffening wires are not shown, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device in this way, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Such a modification is not critical to the design and would have produced no unexpected results. Plural wires may work better in that they may provide greater stiffness, resistance to bending, allowing the device to hold its position more firmly.

Allowable Subject Matter

10. Claims 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments with respect to claims 2, 4-17, and 19-30 have been considered but are moot in view of the new ground(s) of rejection. New art has been applied that better meet that claimed limitations, as outlined above.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened

statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (571) 272-7064. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mark Williams

1/12/06



BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER